IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 11916 of 2004

Between:

G. Gopal, S/o. G. Siddaiah,
Assistant Commissioner of Commercial Taxes, Nellore, Nellore District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep by its Principal Secretary of Government Revenue Department,Secretariat, Hyderabad.
2 The Commissioner of Commercial Taxes Government of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari, a) calling for the records relating to connected with the Judgment and order rendered by the Hon'ble A.P.A.T. in O.A.No. 3555 of 2004 dated 9-7-2004, and quash the same holding it as unsustainable (b) Also call for the records relating to and connected with the orders passed by the State Government in their G.O.Rt. No. 558 (Revenue) Vigilance Department, Dt. 25-3-2003 and Memo No. 12658/Vig.I(1)/2003-15, dated 16-6-2004 passed by the 1st respondent State Government and quash or set aside the same holding it as arbitrary, illegal, unjust and violative of Articles 14 and 16 of the Constitution of India. c) Direct the State Government to refrain from giving effect to its decision contained in G.O.Rt. No. 558 (Revenue) Vigilance Department, dt. 25-3-2003, and the Memo No. dated 16-6-2004 .

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.: GP FOR SERVICES II

The Court at the stage of admission made the following :

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O R D E R (per Hon'ble Sri Justice G. Bikshapathy)

This Writ Petition is filed challenging the order passed by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') in O.A. No. 3555 of 2004, dated 09-07-2004.

2. In pursuance of the directions issued by this Court in W.P.No. 1963 of 2004 dated 09-02-2004 directing the authorities to dispose of the Review Petition dated 16-05-2003 filed by the petitioner within a period of six weeks, the Government had rejected the review petition through its Memo No. 12658/Vig.I (1)/2003-15 dated 16-06-2004. Aggrieved by the said Memo, the petitioner filed O.A.No. 3555 of 2004 before the Tribunal, Hyderabad. However, under the mistaken impression that this Court has already seized of the matter in respect of the suspension in the earlier O.A.No. 5728 of 2003, dated 27-01-2004, the Tribunal dismissed the said O.A. on 09-07-2004 as not maintainable. As against the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner submits that the Tribunal has not properly appreciated the contentions raised by the petitioner. In fact, this Court was not at all seized of any matter and the Writ Petition is finally disposed on 09-02-2004 directing the authorities to pass appropriate orders on the review petition filed by the petitioner and the Government accordingly passed the review petition. Therefore, the Tribunal ought to have passed appropriate orders.

4. We have heard the learned Government Pleader.

5. Even though, it is a matter for remand to the Tribunal, but in view of the fact that the Tribunal was under misconception that the matter was still pending before this Court as per the directions issued by the Government relating to placing an Officer

under suspension on the ground of possession of disproportionate assets in Memo No. 554/Ser.C/93-6 G.A.D dated 26.12.1994 and U.O. note dated 11.6.1999 and inasmuch as there is no recommendation from the Director General, Anti Corruption Bureau to the effect that he is interfering with the enquiry and that he is liable to meddle with the witnesses, we are inclined to dispose of the writ petition itself instead of remanding the matter to the Tribunal. In the light of the instructions issued by Government referred to above, we are of the considered view that the suspension is only unwarranted and accordingly it is set aside. However, it is open to the authorities to transfer the petitioner to some other place i.e. to non-focal place, if it is found that the continuance of the petitioner would influence in the enquiry proceedings.

6. Accordingly, the writ petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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B. SESHASAYANA REDDY,J

13th July, 2004

vp/mjl

(One fair copy to the Hon'ble Sri Justice G. Bikshapathy (for his Lordship's kind perusal)

To

1. The Prl. Secretary to Government, Revenue Dept.

Secretariat, Hyderabad,

2. The Commissioner of Commercial Taxes, Govt. of A.P. Hyderabad.

3. The Registrar, A.P.Administrative Tribunal, Hyderabad.

4. CCs to the Govt. PleaderService II, High court of A.P. Hyd.

5. 2 Cd copies.